REMARKS

Applicant has carefully studied the outstanding Official Action mailed on February 21, 2007. This response is intended to be fully responsive to all points of rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application are respectfully requested.

Applicant affirms that a provisional election of claims 1-15 was made on January 31, 2007.

Examiner states that applicant has not filed a certified copy of the PCT application as required by 35 U.S.C 119(b). Applicant respectfully traverses this statement. The instant application is a CIP national phase of the PCT application and a copy of the PCT application was filed with the USPTO during the international phase, as attested to by PCT/IB/308, submitted herewith.

Claims 1-15 stand rejected under 35 USC §102(a) as being anticipated by Mikurak (US 6606744).

Applicant respectfully traverses this rejection as is now explained in detail.

Claim 1 of the instant application recites that the "...**selection of the offerer that sells said digital item and selection of the requester that buys said digital item is determined not only by a bid price made by the requester and an ask price made by the offerer but also by the available bandwidth of the offerer and the requester**."

Examiner states that Mikurak anticipates this feature and cites col 279, line 51 – col 280, line 29.

Quoting that cited passage: "Place to Buy and Sell Bandwidth Without a bandwidth market, if a customer subscribes to a distributor who offers a service that typically requires lower data rates, such as Internet access, the distributor may not have purchased enough bandwidth for other, more bandwidth intensive applications. If a customer decides that they want to use a bandwidth provider for higher bandwidth or more demanding QoS applications such as video conferencing, their distributor may not be able to provide high enough access rates or guaranteed service levels within the customer's Location Area Code (LAC). Without knowing all possible services that its customers may use, a distributor is unable to purchase appropriate bandwidth and service levels to satisfy all requests. In a similar situation, if a consumer in a first location wants to make a video call to someone in a second location and pay for the call, unless their Distributed Virtual Network Service (DVNS) has purchased bandwidth in the LAC of the second location, a bandwidth provider can not complete the call. This limitation has serious implications. First, many applications can not to traverse

DVNS boundaries, forcing a customer to only communicate with others who share their same distributor. Second, as most distributors are probably be focused on offering a single service (e.g. DSS TV or Internet access), their customers can not access other services on a bandwidth provider's network. The bandwidth provider can become a network dedicated to singular functions. People who wish to access multiple services may need to subscribe to more than one distributor, and may require additional Customer Premise Equipment (CPE). In order to allow customers to access any location or service on bandwidth providers' networks, it is necessary for distributors to be able to buy and sell bandwidth (*emphasis added*). If a customer wants to make a video call to a location in which its distributor does not have bandwidth, the DVNS should be able to purchase bandwidth from another distributor who has excess capacity. Ideally, this could be done on a real-time basis so that customers can immediately access the location or service. Not only does this provide a mechanism for customers to cross DVNS geographic and service boundaries, but it also provides a way for distributors to sell off their excess bandwidth. As distributors can now sell off unused bandwidth in a secondary market, they are more likely to purchase additional wholesale capacity. Like other commodities, bandwidth could be traded among distributors, ultimately resulting in an efficient market (*emphasis added*). In addition to reducing risk for distributors, a bandwidth provider could also use the market to post excess wholesale capacity."

Examiner also quotes col 293, line 44 – col 294 line 9: "The computer includes a number of stored variables characterizing the market for the bandwidth BWTH which the customer wishes to trade, and the market maker's own criteria for his participation in BWTH trading (*emphasis added*). Thus, for example, the computer stores the best bid BSTB(BWTH); the best asked price BSTA(BWTH); the buy size BSZ(BWTH), i.e., the total amount of bandwidth BWTH the market maker is willing to sell for customer purchase at the current price; the market maker's sell size SSZ(BWTH); the maximum single order size for bandwidth BWTH which the market maker will accept .0.RSZ(BWTH); the present amount of bandwidth BWTH long or short in the market maker's position P.0.S(BWTH)--long being positive and short being negative; the average cost per unit of bandwidth AVCST(BWTH) for the bandwidth BWTH long or short in the market maker's portfolio; and a running profit total PR(BWTH) of the market maker in the bandwidth BWTH. Block 13604 functioning next determines if order processing is operative in the normal, automated market mode for the particular amount of bandwidth BWTH. If not (please see below with respect to FIG. 139), program flow branches to block 13606 to store the order for later

retrieval or manual execution. Program flow then returns to start node 13600 for retrieval of the next order. Assuming normal automated mode processing (YES output of test 13604), program flow continues to test 13608 to verify the incoming data (order) to assure correct reception and internal consistency. If an error occurred, an error message is produced (block 13610) and program flow returns to the start node 13600 for entry of the incoming next order. In the usual case, the order is verified at test 13608, and program flow continues to block 13612 to determine if the order is a market order or has a limit price (test of the PR/M variable)."

It is respectfully noted that Mikurak is talking about a fundamentally different situation than the instant invention. Mikurak (please see the above emphasized passages and others) is talking about trading for and purchasing bandwidth. Mikurak does not at all contemplate the method of claim 1 of the instant application "wherein selection of the offerer that sells said digital item and selection of the requester that buys said digital item is determined not only by a bid price made by the requester and an ask price made by the offerer but also by the available bandwidth of the offerer and the requester." Mikurak does not select the buyer or seller based on bid price, ask price and available bandwidth. Mikurak's trading for bandwidth and has nothing to do with the auction of the digital item.

Thus the rejection of claim is respectfully deemed overcome.

The rejection of the other claims is therefore moot. Applicant respectfully wishes to point out anyway a fallacy in the Examiner's rejection of claim 2. Examiner relies on col 27, lines 38-49; col 40 lines 19-35; col 172, lines 50-56; and col 261 lines 21-40.

Col 27, lines 38-49: "Tomorrow's networks are expected to support "multimedia" applications with their much greater bandwidth and real-time delivery requirements. The next generation networks should also have the ability to dynamically reconfigure the network so that it can guarantee a predetermined amount of bandwidth for the requested quality of service (QOS). This includes providing access, performance, fault tolerance and security between any specified set of end systems as directed by the network's manager. The concept is to provide network managers with complete "command and control" over the entire network's infrastructure--not just tell them when a failure has occurred."

Col 40 lines 19-35: "Determines Subscriber Profile Session requirements such as Bandwidth, Quality Of Service, Class Of Service Routing preferences based on Priority, Cost, Termination Location Media and Application requirements (Voice Telephone to Video Telephone, Multi-point, text to speech, Fax to E-mail etc.) Content Separation (Example: Tells the intelligent peripheral and protocol converter to separate the Audio stream from the

data and video stream on an H.32x call; It may also instruct the protocol converter to process the stream so as to enable this audio stream to be fed to a destination which supports traditional analog voice hence the G.728/9 content from the H.32x session would be converted first to AD/PCM and then sent to a Class 5 circuit based switch and terminated on a circuit switched SS7 network POTS line)"

Col 172, lines 50-56: "QUALITY OF SERVICE (BANDWIDTH) Offers range of speed and bandwidth based on customer profile (e.g., larger, higher profile customers get faster service upon request). The network services component of the present invention also offers selected range of speed and bandwidth based on a user profile. For example, larger, higher profile users get faster service upon request."

Col 261 lines 21-40: "Behind security, one of the leading reasons a customer will not `transact` online is the lack of human contact. Although unbelievable to most technologists, there is still an underlying fear of computers hidden in a large percentage of the potential consumer base. Currently, most seller-centric sites do not provide a truly two-way, interactive, or collaborative environment. The site may have a complex form of personalization which will filter and deliver content geared to the specific user, but in most cases will not provide real-time customer interaction. Interaction may be delivered in the following methods: Customer Service Chat--Service provided to interact directly with the customers through the site. In the simplest form this may be a real time, textual chat function letting hesitant shoppers ask questions to either a service or sales representative. Technology and bandwidth considerations would have to be reviewed before audio or video type solutions could be considered. Community--An online community of interest for customers. The purpose of a community is to build an interest in the site so the customers will return simply to interact and gain information (and potentially purchase items). This may include additional information about the products or industry not normally included in the traditional merchandising approach."

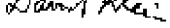
It is respectfully submitted that nowhere in the above passage does Mikurak sell the digital item on condition of "a minimum level of rating of the offerer and the requester, wherein said level of rating is a function of a behavior of a user with other users".

Accordingly, all of the claims are deemed allowable.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

DEKEL PATENT LTD.



David Klein, Patent Agent
Reg. No. 41,118
Tel 972-8-949-5334
Fax 972-949-5323

E-mail dekelltd@netvision.net.il